GA1.13:ID-82-46

BY THE U.S. GENERAL ACCOUNTING OFFICE

COMPLETED
13

Report To The Director, U.S. International Communication Agency

ORIGINAL

Weaknesses In Procurement Practices To Obtain Outside Professional Talent Services

GAO found that existing procurement procedures were generally adequate; however, there are a number of examples where established procedures were not followed. This resulted in awards not being made on a competitive basis as required by the Federal Procurement Regulations.

GAO also questions the use of purchase order vendors to satisfy programing needs at the Voice of America.

GAO/ID-82-46
AUGUST 10, 1982

Request for copies of GAO reports should be sent to:

U.S. General Accounting Office
Document Handling and Information
Services Facility
P.O. Box 6015
Gaithersburg, Md. 20760

Telephone (202) 275-6241

The first five copies of individual reports are free of charge. Additional copies of bound audit reports are $3.25 each. Additional copies of unbound report (i.e., letter reports) and most other publications are $1.00 each. There will be a 25% discount on all orders for 100 or more copies mailed to a single address. Sales orders must be prepaid on a cash, check, or money order basis. Check should be made out to the "Superintendent of Documents".

BEST DOCUMENT AVAILABLE

BEST DOCUMENT AVAILABLE

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

INTERNATIONAL DIVISION

B-208030

The Honorable Charles Z. Wick
Director, United States
International Communication Agency

Dear Mr. Wick:

Subject: Weaknesses in Procurement Practices to Obtain Outside Professional Talent Services (GAO/ID-82-46)

We have completed our study of United States International Communication Agency (USICA) procedures used to obtain professional talent services from outside USICA for specialized needs. We found that existing procedures were generally adequate; however, there are a number of examples where established procedures were not followed. This resulted in awards that were not made on a competitive basis, to the maximum extent practicable, as required by the Federal Procurement Regulations. We also found the questionable use of purchase order vendors to satisfy programing needs at the Voice of America (VOA).

In fiscal year 1981, USICA acquired talent valued at about $5 million for services such as writing, filming, translation, exhibit design and fabrication, copyrights, research, and announcing. USICA uses both contracts (generally for amounts over $10,000) and purchase orders to acquire these talent services. The majority of the talent is acquired through purchase orders. Our study results are highlighted in the following paragraphs.

OPPORTUNITIES FOR COMPETITIVE AWARDS WERE MISSED

In our study, we examined purchase orders awarded to about 500 personal service vendors and 33 contracts which represented about one-quarter of all USICA personal service awards made between October 1, 1980, and February 9, 1982. We found that all of these awards were made without formal advertising. More importantly, many of the purchase orders and 24 of the contracts were awarded without competition (sole-source).

(462509)

BEST DOCUMENT AVAILABLE

There are two basic methods used by USICA to procure needed supplies and services--formal advertising and negotiation. USICA regulations emphasize that "procurement by formal advertising is the preferred method of procurement and is used whenever feasible and practicable even though conditions and circumstances would otherwise satisfy the requirements of negotiation." When formal advertising is not practical, a contract may be negotiated but USICA is still required to base awards on competition to the maximum extent practicable. The Federal Procurement Regulations (FPR 1-3,603-1 (a)(1)) state that "Reasonable competition shall be obtained in making small purchases in excess of $500." We found in USICA, however, an apparent lack of strong commitment to competition on the part of agency personnel including program, procurement and higher level agency officials.

Competition needed in negotiated procurements

Offering all qualified talent vendors the opportunity to compete, whether by formal advertising or by competitive negotiation, helps to minimize favoritism, avoids potential conflicts of interest, and provides greater assurance that acceptable services are obtained at the lowest cost. Part of the reason that USICA awards talent vendor contracts non-competitively (sole-source) ostensibly is that some programing and management offices have urgent program requirements and, therefore, want contracts awarded as quickly as possible or awarded to specific vendors who have already been contacted concerning availability and price. Although the sole-source decisions were ultimately based on this reasoning, USICA programing officials, by sometimes delaying decisions and creating urgency, in effect deny vendors with similar talent any opportunity to compete. The contracting officer told us that earlier and better planning and management by program officials could provide USICA with more of an opportunity to seek competition from other vendors with similar talent.

Below are sole-source personal service awards which we believe could have benefited from competition. A discussion of each sole-source award follows.

Vendor	Amount	Product/Service
Pasetta Productions	$ 350,000	Let Poland be Poland
William Carruthers	139,176	Ronald Reagan biography
Howard Scharf	12,230	Investigative services
Intergrafex	8,725	Modernization exhibit
William Karjala	2,200	Drawings for exhibit

BEST DOCUMENT AVAILABLE

Pasetta Productions. Following the imposition of martial law in Poland, USICA officials in January 1982 decided there was an urgent requirement to broadcast a worldwide program portraying solidarity with the Polish people. A $350,000 sole-source contract was awarded to Pasetta for the production entitled "Let Poland Be Poland." Because of the fixed deadline (end of January 1982) to complete the production, the sole-source justification noted that it was impossible to formally advertise the contract requirements and that only Pasetta had sufficient knowledge and capability to successfully complete the project within the deadline.

In discussing this contract with the USICA contracting official, he agreed that competition could have been sought had sufficient time been available. We do not dispute that there were very tight time frames involved in launching the project, however, we question why Pasetta was the only company contacted when there were other producers who perform similar services. Following is another example of a contract we examined where USICA used similar justifications of urgency and uniqueness of the talent vendor.

William Carruthers. In January 1981, USICA awarded a sole-source contract for about $139,000 to William Carruthers to complete a 30-minute color film biography of President Reagan. This idea was conceived by USICA officials following Mr. Reagan's election. One of the major reasons Carruthers was chosen was his perceived ability to complete the film in February 1981 for subsequent distribution to USICA overseas missions. Although program officials suggested four possible producer/directors (none of which was Carruthers), USICA management determined Carruthers was the only producer who could meet the time frames; therefore, he was awarded the sole-source contract.

Howard Scharf. Another example of a sole-source contract for which competition should have been sought was an award to Howard Scharf for $12,230 to perform investigative services for an equal employment opportunity complaint at the Voice of America. Mr. Scharf had been performing services for program officials for nearly 3 months before the contracting officer was notified to issue a contract. According to the contracting officer, at that point, he had little choice but to prepare a contract using a sole-source justification to support the award.

We found similar examples of sole-source awards while reviewing purchase orders in USICA's Programs Directorate. For example, in the Exhibits Service we examined 20 talent vendor purchase orders and found 6 where the competitive process was followed. The remaining 14 resulted in sole-source awards. (See enc. I.) Two examples follow.

Intergrafex. A company received an $8,725 sole-source award to provide design and related services for a U.S. light industries exhibition in China during February 1982. USICA justified the

BEST DOCUMENT AVAILABLE

award on the basis that the vendor was well known to Exhibit Service officials from previous assignments and was acquainted with USICA procedures.

William Karjala. A vendor was given a $2,200 sole-source award on an urgent basis to prepare detail drawings of a construction package for an exhibit. The justification by a program official noted that the decision to take part in the exhibit was not made by USICA management until 3 months prior to the exhibit and the Exhibits Service was operating under "terrible deadlines." Since USICA had used the talents of a detailer on a previous assignment, he was awarded the contract based on "indispensable existing knowledge of the basic system***."

In discussing these contracts and purchase orders with contracting officials, they noted that program and management officials had become overly involved in the procurement process. Although functions and responsibilities for procurement actions by USICA programing offices and its Office of Contracts are clearly delineated, they are not always observed. On several occasions, USICA programing and management offices appear to have performed procurement functions reserved for the contracting office. This was confirmed in several discussions with procurement officials.

In our opinion, the programing and management offices and the contract office should work as a team in obtaining talent services. For example, the programing and management offices should identify the requirements that must be satisfied by talent contractors. Because these offices are frequently familiar with the capabilities of prospective talent contractors, we believe it would be appropriate for them to recommend talent vendors from whom the Office of Contracts should solicit proposals. However, all contacts with the prospective contractor and all negotiation of costs should be conducted by the contract office. The programing and management offices should be represented at the negotiations to deal with any problems of a technical nature which may arise. Designations of certain contractors by these offices should be viewed only as suggestions rather than mandatory selections for negotiations. We believe that the contract office should be able to formally request proposals from, or at least supplement the suggested contractors with, other prospective talent vendors that possess the capability to perform the service.

Yearly contract renewal without testing the competitive market

Agencies are required by the Federal Procurement Regulations to avoid repeated sole-source awards by fostering competition after a non-competitive procurement. We found an example of a lack of effort to obtain competition in a sole-source contract that USICA renews annually to provide its overseas missions with weekly reports of the "CBS Evening News."

BEST DOCUMENT AVAILABLE

In 1978, USICA initiated a license agreement with the Overseas News and Information Service, Inc., to supply 50-minute color videotape programs of the weekly highlights of the "CBS Evening News" with the license to reproduce, distribute and exhibit them to overseas posts. This license agreement has been renewed annually at a current cost of $60,000. The justification for this sole-source acquisition was that the program and license were available only from the Overseas News and Information Service, Inc., consequently the competition, as cited by the Federal Procurement Regulations, was impractical. However, we found that no attempt was made to obtain a similar news service from any of the other networks.

It is our opinion that USICA should approach the organizations which hold the rights to other news programing services to determine if the same product could be garnered for a better price. When we brought this to the attention of USICA officials, we were told our suggestion seemed feasible and an attempt would be made to investigate other alternatives.

CONCLUSIONS

Federal regulations require contracting officers to award contracts on a competitive basis to the maximum extent practicable. Our study indicated that opportunities to make competitive awards were missed by USICA because of a lack of a strong USICA commitment to competition and to existing procurement procedures. Program and management officials were overly involved in the procurement process by dictating who should get sole-source awards. The justifications used by program officials for sole-source awards for the examples shown above were accepted by procurement officers who seemed to have little choice but to write a contract. We also found a contract being renewed annually without competition.

The need to maximize efforts to obtain competition is the subject of our report to the Chairman, House Committee on Government Operations.1/ The report, based on a review of six civilian agencies identified two causes for the absence of competition which were (1) the lack of effective procurement planning and (2) inappropriate reliance of agency procurement officials on requesting officials sole-source justifications. Based on our study in USICA, we believe these concerns are applicable to the procurement of outside professional talent services.

1/"Less Sole-Source, More Competition Needed on Federal Civil Agencies' Contracting" (PLRD-82-40, Apr. 7, 1982).

BEST DOCUMENT AVAILABLE

RECOMMENDATION

In order to communicate a strong commitment to competitive procurement throughout USICA, the Director of USICA should require procurement officials to seek competitive sources before a sole-source justification can be approved.

QUESTIONABLE USE OF VOA TALENT VENDORS

During fiscal year 1981, VOA used about 650 individual purchase order talent vendors. The majority of these vendors work off VOA premises. We found that 62 or about 10 percent of these vendors are former VOA employees, many of whose services have been continuous and long-term, some dating back to retirement in the early 1970s. These talent vendors are performing services normally required of a VOA employee and are being utilized in lieu of employing staff. Through this practice, VOA management is not providing for the timely and orderly replacement of staff employees.

Generally, talent vendors are used to fulfill programing needs (1) during evenings and weekends, (2) normally required of staff positions which are vacant either temporarily or due to a USICA job freeze and, (3) on short-term notice because of staff personnel being on annual or sick leave.

According to VOA officials, the reasons advanced for the large number of program services being staffed with talent vendors is that VOA is understaffed. We did not address VOA staffing adequacies during our work. It seems to us, however, that this matter must be addressed if a serious effort is to be made in reducing the number of purchase order talent vendors. We were informed that VOA conducted its own internal review of its use of talent vendors in 1976 but that no changes were made. In January 1982, VOA undertook a position management study which is addressing, among other things, the use of purchase order talent vendors. The study is expected to be completed in the summer of 1982.

As mentioned earlier, about 10 percent of VOA talent vendors who are used on a purchase order basis are former VOA employees. The practice of using retired VOA employees as purchase order vendors was discussed in a March 1978 internal audit report of USICA's Office of Inspection and Audit. In citing a number of examples of long-term use of retired VOA employees as purchase order vendors, the report concluded that VOA had a "revolving door" approach whereby potential retirees are immediately placed on purchase order with no break in productive service. The report recommended that VOA establish procedures to periodically re-evaluate the need for retaining retired VOA employees performing services in a contractual capacity. During our study, we found that VOA has not implemented this recommendation.

BEST DOCUMENT AVAILABLE

In addition to using retirees as purchase order talent vendors, VOA, in one instance noted by us, used a dependent of a VOA employee as a vendor. The daughter of the then Acting Director of VOA was a purchase order vendor and answered mail from VOA listeners from June through August 1981. She received about $1,000 for her services. The use of this person as a talent vendor is in violation of Chapter II, Section A(1) of VOA's Instruction No. 117 as revised January 1, 1981, which states:

> "Talent services or products will not be procured from a relative or dependent of an Agency employee. Exception may be made only provided full written justification in each case is approved in writing by the VOA Executive Board. Under no circumstances will talent vendors be permitted to work under any form of supervision of a relative or dependent."

Another example involves VOA's Turkish Service using the wife of the Chief of the Service as a translator under talent vendor purchase orders signed by her husband. This situation continued for about 1 year until March 1982 when VOA's Director of Administration issued a memorandum which rescinded her purchase order vendor work in the Turkish Service. He stated that this arrangement "constitutes a situation whereby it would be extremely difficult to rationalize Mr.***not having some influence, direct or indirect, over the working conditions and compensation of Mrs.***."

The subject of nepotism was also included in the March 1978 internal audit report which listed 10 purchase order vendors that had relatives working for VOA. Although the report made no recommendation on this matter, it was made clear that such practices were not in accordance with existing VOA regulations governing the selection of talent vendors as stated in the above regulation.

CONCLUSIONS

The use of purchase order talent vendors to satisfy programing needs is a long-standing practice which has been the subject of a number of USICA reports and studies, the latest of which is expected to be completed during the summer of 1982. VOA uses talent vendors to augment programing needs instead of planning for the orderly replacement of personnel through improved recruiting and training practices. Although we do not know what the results of the current VOA personnel practices study will be, VOA needs to adopt a plan of action to avoid further increases in the number of purchase order vendors.

The practice of using relatives and dependents of VOA employees as purchase order vendors has continued for a number of years. This practice is clearly in violation of VOA regulations which prohibit nepotism and should be discontinued.

BEST DOCUMENT AVAILABLE

RECOMMENDATIONS

We recommend that the Director, USICA:

--Instruct VOA officials to anticipate retirements and provide for the orderly and timely replacement of full-time employees rather than continuing to rely on purchase order vendors.

--For existing purchase order vendors, require VOA officials to establish procedures to periodically re-evaluate the need for retaining former employees performing services in a contractual capacity.

--Instruct VOA officials to comply with existing VOA regulations which prohibit using talent vendors who work under any form of supervision of a relative or dependent.

SCOPE AND METHODOLOGY

We examined a sample of professional talent vendor contracts and purchase orders from the applicable files in the Office of Contracts and in three of the four USICA Directorates--Management, Programs, and Broadcasting. Because of the small amount of talent acquisitions made by the Educational and Cultural Affairs Directorate and by USICA overseas posts, we did not review their contracts and purchase orders. We discussed the talent awards with the offices responsible for planning, negotiating, awarding and monitoring our sample of selected actions.

The study was performed in accordance with the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

The sample we selected for our study was not chosen randomly but is, we believe, representative of USICA's broad program coverage and includes both large and small dollar value contracts and purchase orders. Our conclusions and recommendations are based solely on our judgmental sample.

We discussed our report with USICA officials. They agreed that the recommendations warranted serious consideration.

- - - - -

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of

BEST DOCUMENT AVAILABLE

the report and the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Director, Office of Management and Budget; cognizant congressional appropriation and authorization committees; and to others upon request.

Sincerely yours,

Frank C Conahan

Frank C. Conahan
Director

Enclosure

BLANK PAGE

BEST DOCUMENT AVAILABLE

ENCLOSURE I

LISTING OF 14 TALENT VENDORS

WHO RECEIVED SOLE-SOURCE AWARDS

VENDOR	AMOUNT	PRODUCT/SERVICE
Intergrafex	$ 8,725	Modernization exhibit
David Katzive	5,000	Researcher for exhibit
William Karjala	2,200	Detail drawings for exhibit
Jack Morton Productions	2,100	Redo sound track
Com Corp.	2,055	Processing and programing of multi-image show
John Michael	2,009	Printing services
Michael Mitchell	1,585	Studio photos of 5 people
John Albok	1,200	Purchase of photos
The Talbots	1,193	Manufacture of 85 smocks
Beth Singer	1,140	Produce panel layouts
Richard Rabinowitz	1,000	Write and deliver article
William Karjala	800	Drawings for exhibit floor plan
Huai Chiang	629	Consultation on exhibit acceptance
Tadeusz Walendowski	600	Translation for exhibit